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Programme budget for the biennium 2004-2005

Administration of justice at the United Nations

Possibility of the financial independence of the United Nations Administrative Tribunal from the Office of Legal Affairs

Report of the Secretary-General

Summary

In its resolution 57/307 of 15 April 2003, the General Assembly requested the Secretary-General to take steps to ensure the independence of the United Nations Administrative Tribunal and the separation of its secretariat from the Office of Legal Affairs and to study the possibility of its financial independence. In its resolution 58/270 of 23 December 2003, the Secretary-General was requested to report to the General Assembly on this subject at its fifty-ninth session.

In response to the above requests, the General Assembly is requested to take note of this report and to approve the transfer of resources related to UNAT from Section 8, Office of Legal Affairs, to Section 1, Overall policy-making, direction and coordination, effective as of the biennium 2006-2007.

* A/59/50 and Corr.1.

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I. Introduction

1. In operative paragraph 5 of its resolution 57/307 of 15 April 2003, the General Assembly requested the Secretary-General to take steps to ensure the independence of the United Nations Administrative Tribunal and the separation of its secretariat from the Office of Legal Affairs and to study the possibility of its financial independence. Subsequently, in its resolution 58/270 of 23 December 2003, the General Assembly requested the Secretary-General to submit the report at its fifty-ninth session.

II. Historical background of the United Nations Administrative Tribunal

2. The United Nations Administrative Tribunal (UNAT) was established by the General Assembly in its resolution 351 A (IV) of 24 November 1949 as the independent organ competent to hear and pass judgement upon applications alleging non-observance of contracts of employment of staff members of the Secretariat of the United Nations or of their terms of appointment. The Tribunal may also hear applications alleging non-observance of the regulations and rules of the United Nations Joint Staff Pension Fund (UNJSPF).

3. The Tribunal is composed of seven members, no two of whom may be nationals of the same State, who are appointed by the Assembly initially for four years and may be reappointed once. Members shall possess judicial or other relevant legal experience in the field of administrative law or its equivalent within the member's national jurisdiction. The competence of the Tribunal extends to the secretariats of the associated programmes that are financed from voluntary contributions, such as the United Nations Development Programme, the United Nations Children's Fund, the United Nations Population Fund, the Office of the United Nations High Commissioner for Refugees and the United Nations Relief and Works Agency for Palestine Refugees in the Near East. Under article 14 of the Tribunal's Statute, the competence of the Tribunal has also been extended to the International Maritime Organization and the International Civil Aviation Organization, to the staff of the Registry of the International Court of Justice, the Registry of the International Tribunal for the Law of the Sea, and to the staff of the International Seabed Authority.

4. The secretariat of the United Nations Administrative Tribunal performs legal and secretarial services for the Tribunal. It is headed by an Executive Secretary, who is accountable to the President of the Tribunal for all substantive matters. The secretariat of the Tribunal is provided with administrative support by the Executive Office of the Office of Legal Affairs (OLA) in view of the absence of a full administrative structure within the UNAT secretariat itself. OLA does not provide any substantive direction or oversight to the UNAT secretariat.

III. Proposal for transfer of the United Nations Administrative Tribunal

5. The Executive Office of OLA supports the secretariat of UNAT in its day-to-day operations by providing administrative and logistical services as requested by the Executive Secretary. Without such service, the secretariat of UNAT would need an entire administrative infrastructure of its own.

6. UNAT is financially independent from OLA insofar as separate budgetary provisions are made for its operation. These are reflected under the heading "policy-making organs" of Section 8, Office of Legal Affairs, of the programme budget.

7. However, to avoid any appearance of undue influence by the Respondent, it is proposed that UNAT and its secretariat be included under Section 1, Overall policy-making, direction and coordination, of the programme budget.

8. Relocating UNAT to this section of the programme budget would address the request reflected in resolution 58/270. Further, it would bring UNAT and its secretariat in line with comparable subsidiary organs of the General Assembly including the Advisory Committee on Administrative and Budgetary Questions, the Committee on Contributions, the United Nations Board of Auditors, and the United Nations Joint Staff Pension Fund, which are financially and operationally independent but for which budgetary provisions are reflected under Section 1, Overall policy-making, direction and coordination, of the programme budget.

IV. Conclusion and recommendation

9. Should the General Assembly adopt the proposal, as of the biennium 2006-2007, the financial resources for UNAT would be reflected under Section 1, Overall policy-making, direction and coordination. For the biennium 2004-2005, the level of resources allocated to UNAT and its secretariat amounts to $1,532,000, which provides for four posts (1 P-5, 1 P-3, and 2 GS/OL) and various non-post items.

10. **It is recommended that the General Assembly take note of the report and approve the proposal of the Secretary-General to transfer the resources of UNAT from Section 8, Office of Legal Affairs, to Section 1, Overall policy-making, direction and coordination, effective with the beginning of the new biennium 2006-2007.**